

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE COMMISSIONER OF HUMAN SERVICES

In re the Revocation of the License of
Kateann and Anthony Feist to Provide
Family Child Care

**FINDINGS OF FACT, CONCLUSIONS
and RECOMMENDED DECISION**

The above matter came on for hearing before Administrative Law Judge George A. Beck on Wednesday, July 6, 2005, at 9:30 a.m. in the Grand Jury room of the Anoka County Courthouse in Anoka, Minnesota. The OAH record closed on the date of the hearing.

Kristin Larson, Assistant Anoka County Attorney, 2100 Third Avenue, Anoka, MN 55303-2265 appeared on behalf of the Department of Human Services and the Anoka County Human Services Division. Anthony and Kateann Feist, 4840 Sixth Street Northeast, Columbia Heights, MN 55421, appeared representing themselves without the benefit of counsel.

NOTICE

This report is a recommendation, not a final decision. The Commissioner of Human Services will make the final decision after a review of the record. The Commissioner may adopt, reject or modify the Findings of Fact, Conclusions, and Recommendations. Under Minn. Stat. § 14.61, the final decision of the Commissioner shall not be made until this Report has been made available to the parties to the proceeding for at least ten days. An opportunity must be afforded to each party adversely affected by this Report to file exceptions and present argument to the Commissioner. Parties should contact Commissioner Kevin Goodno, Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155, 651-296-2701, to learn the procedure for filing exceptions or presenting argument.

If the Commissioner fails to issue a final decision within 90 days of the close of the record, this report will constitute the final agency decision under Minn. Stat. § 14.62, subd. 2a. In order to comply with this statute, the Commissioner must then return the record to the Administrative Law Judge within 10 working days to allow the Judge to determine the discipline to be imposed. The record closes upon the filing of exceptions to the report and the presentation of argument to the Commissioner, or upon the expiration of the deadline for doing so. The Commissioner must notify the parties and the Administrative Law Judge of the date on which the record closes.

Under Minn. Stat. § 14.62, subd. 1, the agency is required to serve its final decision upon each party and the Administrative Law Judge by first class mail or as otherwise provided by law.

STATEMENT OF ISSUE

The issue in this case is whether or not the child care license of Anthony and Kateann Feist should be revoked.

Based upon all the proceedings in this matter, the Administrative Law Judge makes the following:

FINDINGS OF FACT

1. Kateann and Anthony Feist were first licensed as child care providers by Anoka County in September of 2002. Ms. Feist was a nanny for 11 years prior to licensure. The date of their home visit by licensing social worker Jennifer Carlson was September 23, 2002.^[1] Thereafter they began providing family child care.

2. A March 2003 newsletter sent to Anoka County child care providers provided in part as follows:

Many child care providers use a substitute caregiver periodically. That's fine, according to the Rule as long as certain requirements are met. Before you use a substitute caregiver, which is defined as anyone 18 years of age or older who is assuming the role of the provider, make sure the following items are completed:

- § A background study – We realize this may not have been enforced before, however, the Human Services Licensing Act requires that “all caregivers” must have a background study completed.
- § SIDS Training – Your sub needs training on reducing the risk of Sudden Infant Death Syndrome if there is an infant in care when the substitute is providing care.^[2]

Theft Charge

3. On July 23, 2003, Anthony Feist was charged with felony theft of moveable property in Ramsey County District Court by the filing of a Complaint. The Roseville Police alleged that while Mr. Feist was employed as a cashier at Marshall Fields in Roseville, he drastically marked down the prices on goods that he sold to his mother and father on three occasions. Mr. Feist was arrested on August 7, 2003, made his first appearance on August 12, 2003, and was released on his own recognizance. His attorney filed a Certificate of Representation with the Court on August 12, 2003. At a hearing on August 28, 2003, the Court directed that Mr. Feist be considered for a pretrial diversion program called Project Remand. On September 25, 2003, the Court

ordered Mr. Feist to participate in this program, after he was evaluated as suitable for diversion.^[3]

4. In a letter to Ms. Carlson dated October 10, 2003, the Project Remand counselor indicated that Mr. Feist was a first time offender and that the prosecutor, investigating police officer and the victim agreed that diversion was appropriate. In order to be eligible, Mr. Feist had to have a clear criminal record, admit to the charge and express remorse, be willing to pay full restitution, and be willing to address any problem areas such as chemical dependency. Mr. Feist was directed to complete 100 hours of community work service, pay restitution to Marshall Fields in the amount of \$859.70, attend theft related group meetings, remain law abiding in all respects and maintain weekly contact with Project Remand.^[4]

5. Mr. Feist complied with the requirements of Project Remand and, one year later, on September 27, 2004, the felony theft charge was dismissed and Mr. Feist was restored to all civil rights.^[5]

6. On June 22, 2005, Mr. Feist attended an expungement hearing in Ramsey County District Court where his arrest record was expunged.^[6]

7. The Feists applied for a renewal of their license on August 25, 2003 and indicated that they resided in the house along with a roommate, Richard J. Bennett, who had three children in the Feists' child care.^[7] They filled out the relicensing checklist on August 25, 2003, and stated that no one in the household had been charged with a felony or misdemeanor or involved in Court services in the past year.^[8]

8. Richard Bennett resided with the Feists from March 1999 to October 2004. He is the ex-husband of GeNee Murphy Bennett. Their three children, Alexander, Teralynn and Samantha were in overnight child care (8:30 p.m. to 8:00 a.m. four days per week) with the Feists from February 2004 to April 2005.^[9] GeNee and Kateann are related and are close friends. Kateann is the godmother of one of GeNee's children. The three children had their own bedroom at the Feists' home.

9. On September 15, 2003 Anoka County sent a letter to Ms. Feist stating that she, Mr. Feist and James R. Bennett were not disqualified from providing services based upon completed background studies.^[10]

10. Sometime prior to September 24, 2003, Ms. Carlson learned that Mr. Feist had been arrested for theft. She asked the Ramsey County Sheriff's office and the Ramsey County District Court for more information and was provided with the Court records as well as a referral to Project Remand. She then contacted Project Remand to learn the status of the matter.^[11]

11. Ms. Carlson conducted a relicensing visit at the Feist's home on October 7, 2003. As a part of the visit, Ms. Carlson specifically asked the Feists whether anyone in their household or employ had been charged with or convicted of a felony or misdemeanor, or involved in any court services for any reason since their last licensing visit. Both said "no" and Mr. Feist went on to say that he had checked their backgrounds at the State Fair and that "nothing showed up."^[12]

12. By a letter dated November 3, 2003, Ms. Carlson wrote to the Feists to advise them that Mr. Feist was disqualified due to his admission to the theft charge and

that it had been determined that he posed a risk of harm to persons served in the child care program and would therefore have to be continuously within the sight or hearing of another adult caregiver whenever he had direct contact with the children. The letters advised Mr. Feist of his right to request reconsideration of the disqualification.^[13]

13. Mr. Feist requested reconsideration and on December 15, 2003, Ms. Carlson sent a letter to the Department that suggested that Mr. Feist had not been truthful with her on October 7, 2003 when asked if anyone in the household had been charged with a felony or misdemeanor since the last licensing visit. Ms. Carlson recommended that the disqualification not be set aside but that a variance with conditions be granted since she found the level of risk to be intermediate.^[14]

14. By a letter dated January 9, 2004, the Department advised Mr. Feist that his disqualification would not be set aside but that a variance would be granted for a period of one year, provided that Mr. Feist was not used as a substitute caregiver and was not allowed unsupervised contact with children enrolled in care.^[15] The Department declined to make the Feist license conditional as suggested by Anoka County.

15. On September 1, 2004, Anoka County received an application for the renewal of the child care license from the Feists.^[16] Ms. Carlson conducted a relicensing visit on September 29, 2004. She noted that the Feists continued to be argumentative about Mr. Feist's disqualification but recommended that they be relicensed for one year once Mr. Feist's variance was renewed.^[17] Mr. Feist provided an Order of Dismissal for his theft charge to Ms. Carlson.

16. On September 20, 2004, Anoka County again advised the Feists that Mr. Feist was disqualified and had been found to pose a risk of harm to children in the program that required him to be continuously within the sight or hearing of another adult caregiver.^[18]

Betty Murphy

17. Betty Jean Murphy is Ms. Feist's mother. A background check was performed on her in September of 2003 because she was to be a substitute caregiver. It disclosed that in September of 1996 Ms. Murphy had been convicted of theft by check and required to pay restitution in the amount of \$177.48 to a convenience store.^[19]

18. The conviction resulted from Ms. Murphy issuing a check at a Holiday in Bloomington in the amount of \$157.48 on November 10, 1995, without sufficient funds in her account.^[20] Her sentence was discharged a year after her guilty plea at which point it was apparently reduced to a petty misdemeanor.

19. A risk of harm determination was made by Jennifer Carlson on December 17, 2003, which determined that Ms. Murphy presented a low risk.

20. By a letter dated December 17, 2003, Ms. Carlson advised Ms. Murphy of her disqualification from serving in a child care program due to her 1996 misdemeanor theft conviction. She was advised of her right to request reconsideration of the disqualification within 15 days, but did not do so. During this time her mother was dying. Mr. Feist called Anoka County after the 15 day deadline but was told it was too late to appeal.

21. On January 15, 2004, Ms. Carlson advised the Feists that they could not use Betty Murphy as a substitute in their child care program.^[21]

Sue Feist

22. On September 17, 2004, Anoka County received information from a daycare parent that Kateann's mother-in-law had provided substitute care when Kateann was on bed rest due to a difficult pregnancy.^[22]

23. Ms. Carlson visited Ms. Feist on September 22, 2004 and Ms. Feist told her that her mother-in-law, Sue Feist, had helped while she was on bed rest in July by making lunch for the kids but stated that she (Kateann) was always present. Ms. Feist rested on a couch in the living room. She also told Ms. Carlson that a friend, Lona, was there for two hours in the morning on September 15, 2004 while she went to an ultrasound appointment. Ms. Carlson reminded her that helpers and substitutes needed background studies, and SIDS training if an infant was in care. Ms. Feist also told Ms. Carlson that her mother, Betty Murphy, had not been used as a substitute, but had accompanied the children to the park with Ms. Feist present.^[23]

24. Ms. Carlson issued a correction order to Ms. Feist for the failure to have a background study on Sue Feist or Lona and for not having them complete SIDS training when an infant was in care. Ms. Feist corrected the violations by October 4, 2004.^[24] Ms. Feist then told her child care parents that the child care would have to close when she needed to go to medical appointments.

Unsupervised Contact

25. On the relicensing visit on September 29, 2004, the case aide made a note that "Tony transported kids-Alex, Teralynn, and Samantha overnight-bring home in the A.M.?" The notes also stated that "Kate's mom has been here to visit – been to park with them."^[25]

26. Ms. Carlson then issued a correction order dated October 5, 2004 which stated the Feists had admitted that Anthony had unsupervised contact with daycare children while driving three overnight children home. It also stated that Kateann admitted that Betty Murphy had contact with daycare children by visiting the home during daycare hours and accompanying the daycare to the park.^[26]

27. Mr. Feist did not drive the three overnight children home in the morning – either Mr. or Mrs. Bennett did.^[27] Mr. Feist leaves for work at 7:30 a.m. and the children stay until 8:00 a.m. Mr. Feist had driven them places outside of day care hours for family events.^[28] Ms. Feist did not admit that Ms. Murphy had been in the day care home.

28. In the letter sending the correction order to the Feists, Ms. Carlson stated that Anoka County was recommending that their license be placed on conditional status due to the violations involving Mr. Feist driving children home and Ms. Murphy accompanying the children to the park. The letter also advised the Feists that even though Mr. Feist's theft charge was dismissed, he would continue to be disqualified due to his admission to the crime of theft and he must therefore request reconsideration and seek a variance.^[29]

29. By letter dated October 15, 2004, Anoka County sent the Department Mr. Feist's request for reconsideration, a copy of the order dismissing charges against him and recommended to the Department that the disqualification not be set aside but that a variance be granted.^[30]

30. On November 15, 2004, Anoka County recommended to the Department that the Feist's license be placed on a conditional status for one year and that they be fined \$200 for the violations related to background studies and SIDS training as well as the use of disqualified individuals, namely Mr. Feist and Ms. Murphy.

31. On December 29, 2004, the Department advised the Feists that Mr. Feist's disqualification had not been set aside and advised Mr. Feist, among other things, that it appeared he had not taken responsibility for his actions and had failed to provide any evidence of rehabilitation. It nonetheless granted a one year variance to the disqualification provided there were no recurrences of the same or similar incidents. The Department declined to impose a conditional license, at that time.^[31]

32. Subsequent to the December 29, 2004 order from the Department, however, Ms. Carlson discussed the license recommendation with the Department. Department personnel wanted to revoke the license rather than make it conditional. Anoka County disagreed with revoking the license. The Department then terminated Mr. Feist's variance from his disqualification.

33. On February 18, 2005, Anoka County recommended to the Department that the Feist's family child care license be revoked because Mr. Feist's variance from his disqualification had been terminated. The letter stated that the failure to comply with the conditions of the variance occurred when Mr. Feist acknowledged driving three overnight daycare children home on September 29, 2004.^[32]

34. The Department sent a letter to Ms. Feist on March 11, 2005 advising her that she must immediately remove Mr. Feist from any position allowing direct contact with daycare children since his variance had been terminated.^[33] On the same date, the Department advised the Feists that their child care license was revoked based upon the violations related to background studies, SIDS training and the use of disqualified caregivers.^[34] The Order stated that Betty Murphy had been used as a substitute caregiver and that Mr. Feist had admitted that he had driven three children who were in care, home approximately 5 days a week. Mr. Feist then removed himself from his home for a period of three weeks to allow the child care to continue. He stayed at his parents' house.

35. Ms. Carlson wrote a letter to the Feists on April 8, 2005 to advise them that Mr. Feist could not reside in the home if Mrs. Feist continues to provide child care and requested that she be provided with verification of Mr. Feist's residence by April 15, 2005.^[35]

36. Two day care parents testified in support of continued licensure for the Feists and two other families provided positive written comments about the Feist's child care.^[36]

Based upon the foregoing Findings of Fact the Administrative Law Judge makes the following:

CONCLUSIONS

1. The Commissioner of Human Services and the Administrative Law Judge have jurisdiction in this matter under Minn. Stat. § 14.50 and 245A.08.

2. The Department of Human Services gave proper and timely notice of the hearing in this matter.

3. The Department and Anoka County Human Services have complied with all substantive and procedural requirements of law or rule.

4. Minn. Stat. § 245A.07, subd. 3 authorizes the Commissioner to revoke a license where a license holder fails to comply fully with applicable laws or rules.

5. Under Minn. Stat. § 245A.08, subd. 3, if the Department demonstrates that reasonable cause exists to take action, the burden of proof in the hearing involving the revocation of a child care license shifts to the license holder to demonstrate by a preponderance of the evidence that the license holder was in full compliance with the laws or rules allegedly violated.

6. Minn. Stat. §§ 245C.03, subd. 1 and 245C.04, subd. 1(d) require background studies to be performed on substitute caregivers before they provide care.

7. The Department has demonstrated reasonable cause to believe that Ms. Feist used substitute caregivers without seeking background studies for them. The Feists have not proved that they were in compliance with the statutes.^[37]

8. Minn. Stat. § 245A.144 and Minn. Rules subpart 9502.0385 require substitute caregivers for infants to have SIDS training.

9. The Department has demonstrated reasonable cause to believe that the Feists have used a substitute caregiver who did not have SIDS training when an infant was in care. The Feists have failed to prove by a preponderance of the evidence that they were not in violation of this rule.^[38]

10. Minn. Stat. § 245C.14, subd. 2 prohibits the use of a substitute caregiver who is disqualified.

11. The Department has shown reasonable cause to believe that the Feists have used a substitute caregiver who had been found to be disqualified, when it appeared he had driven three children home from child care. The Feists have proved by a preponderance of the evidence that they were in compliance with the statute.^[39]

12. Minn. Stat. § 245C.14, subd. 2 and Minn. Rules 9502.0335, subpart 6(d) prohibit a disqualified individual from living in a child care home.

13. The Department has demonstrated reasonable cause to believe that a disqualified individual, Mr. Feist, resided in the child care home after his variance was rescinded. The Licensees have not shown by a preponderance of the evidence that they are in compliance with the statute and rule since Ms. Feist's variance was rescinded.

14. The Commissioner may terminate a variance for a disqualified individual at any time for cause and the decision is not subject to appeal under Chapter 14 as set out in Minn. Stat. § 245C.30, subd. 4 and 5.

15. That the termination of Mr. Feist's variance was based upon inaccurate information and should be reconsidered by the Department.

16. A decision to revoke a license must take into account "the nature, chronicity, or severity of the violation of law or rule and the effect of the violation on the safety, health, or rights of persons served by the program," and the "facts, conditions or circumstances concerning the program's operation, the well-being of persons served by the program, [and] available consumer evaluations of the program..."^[40]

Based upon the foregoing Conclusions, and for the reasons set out in the following Memorandum, the Administrative Law Judge makes the following:

RECOMMENDATION

IT IS HEREBY RECOMMENDED: That disciplinary action be taken against the child care license of Kateann and Anthony Feist.

Dated this 21st day of July, 2005.

s/George A. Beck
GEORGE A. BECK
Administrative Law Judge

Reported: Taped
(Two tapes, no transcript prepared)

MEMORANDUM

The Department acknowledges that the violations related to the lack of background studies and SIDS training are not the most serious violations alleged. After learning from a day care parent that Ms. Feist's mother-in-law had helped out in the child care program, Ms. Carlson visited Ms. Feist. Ms. Feist told Ms. Carlson that her mother-in-law, Sue Feist, had helped her with child care for several days in July of 2004 when the licensee was having a hard time standing for long periods of time due to a difficult pregnancy. Sue Feist was also there when Kateann had to go to the emergency room due to her pregnancy. Sue Feist subsequently had a background study done and had SIDS training. It is clear that Ms. Feist should have initiated this process earlier. She knew that her mother (Ms. Murphy) was disqualified from helping. It is possible that Ms. Feist didn't anticipate needing bed rest, but some preparation for substitute help during a pregnancy would be a reasonable step.

Ms. Feist also acknowledged to Ms. Carlson that she had used a woman named Lona as a substitute for two hours on Sept. 15, 2004 while she went to an ultrasound appointment. There was an infant in care and Lona had not had SIDS training nor a

background study. Again, this is a rule violation. It should be noted, however, that Ms. Feist cooperated promptly in addressing the violations.

The Department also points to the use of disqualified persons in the child care as a more serious violation. According to the record the licensee disclosed to Ms. Carlson that her mother, Betty Murphy, had accompanied the children and Ms. Feist to the park one day, after she had been notified that she was disqualified from providing direct care to the children. There is no evidence that she was present in the child care home. Ms. Murphy had been disqualified in December of 2003 after a background check found that she had a 6 ½ year old worthless check conviction for a check she wrote at a Holiday store. It is difficult to see how a stale conviction of this nature relates to the safety of children. Furthermore, when the conviction was *seven* years old, Ms. Murphy automatically passed the background check. The Department points out that Ms. Murphy did not request reconsideration of the disqualification. However, the appeal period was running when her Mother was dying. And, when Mr. Feist called after the 15-day appeal period had run, he was told that the disqualification was final and they could not appeal. Even if going along with the children to the park constitutes serving as a substitute, when all of the circumstances are considered, the severity level of a violation seems negligible.

It seems clear that Mr. Feist was less than truthful with Ms. Carlson in October of 2003 when she asked him whether he had been charged with a crime in the past year. Mr. Feist's excuse was that he expected the charge to be dismissed because he was in a diversion program and that his attorney told him not to talk about it. Nonetheless, it should have been disclosed. The non-disclosure was apparently taken into consideration when his disqualification was not set aside in January of 2004. It was not alleged as an issue in this contested case proceeding.

The Department has minimized what Mr. Feist has accomplished after being charged with theft by stating that the disqualification is still justified by his admission of guilt that he made as a condition of entering the diversion process. While this is technically correct, Mr. Feist's efforts to set things straight should not be overlooked. He gained access to a diversion program, completed all of its requirements, had the charges against him dismissed and then successfully sought to have his arrest record expunged. The court's determination that Mr. Feist was appropriate for diversion, that dismissal of the charges was proper, and that his arrest should be expunged should not be ignored. It suggests that Mr. Feist, who now does not have even an arrest record, is not a danger to society. And it is difficult to see how the conduct he admitted to relates to the safety of children in care. It is clear that Mr. Feist is remorseful, particularly about the consequences for his wife's career, which has consisted only of child care.

The Department pointed out during the hearing that the Feists did not seek reconsideration of Mr. Feist's disqualification as is allowed by law. Since Anoka County recommended a variance from the disqualification, and since a variance allowed them to keep the day care open, they apparently thought the variance was sufficient. They did not understand the difference legally between a disqualification and a variance. Under Minn. Stat. § 245C.22 subd. 4, a disqualification may be set aside if an individual demonstrates that he does not pose a risk of harm to children in care. Although the time elapsed since the event and rehabilitation were factors that weighed against Mr.

Feist in 2003, at this point they do not. And the lack of other events and lack of similarity between the victim and daycare children are factors that weigh in Mr. Feist's favor. A set aside would allow Mr. Feist to have direct contact with the children and could reasonably be reconsidered by the Department at this point in light of his effort at rehabilitation. The failure to seek all available appeals by the Feists does not suggest that they agreed with the determinations. In fact the Feists continued to express their disagreement with the disqualification to Ms. Carlson.

The Department sees the most serious matter in this case as the conduct that led to the termination of Mr. Feist's variance, which then required the revocation of the license if Mr. Feist continued to live in his home. The Department concluded that Mr. Feist was driving the three Bennett children home in the morning and saw that as contact with children prohibited by the conditions of his variance. The note by the case aide about this matter was not clear and ended with a question mark. Ms. Carlson's note on the enrollment form supports the allegation. But based upon the testimony of Ms. Bennett, Mr. and Mrs. Feist and the letter from Mr. Bennett, it is more likely than not that Mr. Feist did not drive the children home in the morning. He was gone to work when either Mr. or Mrs. Bennett picked them up. It seems likely that there was some confusion during the Sept. 29, 2004 interview that led to a mistaken conclusion. Mr. Feist did acknowledge sometimes picking up the three children, who were related to his wife, for family outings. The statute only allows a variance to be terminated for cause. The Commissioner should review and reconsider the termination of the variance based upon the facts developed in this contested case proceeding.

This recommendation is supported by the sequence of events leading to the termination. On December 29, 2004 the Department again granted Mr. Feist a variance despite the Oct. 5, 2004 correction order for unsupervised contact by Mr. Feist. This was also subsequent to Anoka County's recommendation for a conditional license on November 15, 2004. Sometime in early 2005 the Department decided to terminate the variance, with, as the Feists point out, no new facts being developed after Dec. 29, 2004. This creates the unfortunate appearance that when the Department could not convince Anoka County to recommend revocation, it simply decided to terminate the variance, an action from which there is no appeal, in order to mandate a revocation.

The licensing statute requires the Commissioner to consider the nature, severity and chronicity of violations in imposing discipline. If the termination of the variance is found to be unsupported, the seriousness of the violations does not suggest that revocation of the license is merited. There is no contention here that a child was harmed or placed in danger. The "available consumer evaluations" of the program are positive. While rules must be complied with, discipline must be proportionate to the violations.^[41] Mr. Feist no longer has a conviction or an arrest, Ms. Murphy's conviction is over seven years old and Sue Feist has the required training and background study. Mr. Feist's 2003 theft has been erased by the judicial system and does not clearly relate to the well-being of the children served in the daycare program. The Commissioner should consider lesser discipline.

G.A.B.

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- [1] Exhibit 1, Exhibit 2.
- [2] Exhibit 3.
- [3] Exhibit 6.
- [4] Exhibit 6.
- [5] Exhibit D.
- [6] Exhibit E.
- [7] Exhibit 4.
- [8] Exhibit 5.
- [9] Exhibits A, G.
- [10] Exhibit H. Anoka Co. believes that Mr. Feist's inclusion in this letter was a mistake because Mr. Feist's background study was not completed.
- [11] Exhibit 6.
- [12] Exhibit 5.
- [13] Exhibit 7.
- [14] Exhibit 8. The Feists did not understand the distinction between setting a disqualification aside and seeking a variance and assumed a variance was adequate.
- [15] Exhibit 9.
- [16] Exhibit 11.
- [17] Exhibit 13.
- [18] Exhibit 14.
- [19] Exhibit 6.
- [20] Exhibit 10.
- [21] Exhibit 10. Ms. Murphy later passed a background check because her conviction was over seven years old.
- [22] Exhibit 15; Kateann had to visit the emergency room several times prior to the birth of her daughter on January 3, 2005. Ms. Feist suffered a miscarriage in the summer of 2003.
- [23] Exhibit 15.
- [24] Exhibit 17.
- [25] Exhibit 16.
- [26] Exhibit 18.
- [27] Exhibit G.
- [28] The Department later advised Mr. Feist that this type of contact was permissible. Exhibit 27, p. 2.
- [29] Exhibit 19.
- [30] Exhibit 20.
- [31] Exhibit 22.
- [32] Exhibit 23.
- [33] Exhibit 24.
- [34] Exhibit 25.
- [35] Exhibit 26.
- [36] Exhibit B, Exhibit C.
- [37] Finding of Fact No. 23.
- [38] Finding of Fact No. 23.
- [39] Findings of Fact Nos. 25 – 27.
- [40] Minn. Stat. § 245A.04 and 245A.07, subd. 1
- [41] In Re Burke, 666 N.W.2d 724 (Minn. Ct. App. 2003)